

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By **CHAIRMAN ARNIE MOHL**, on January 28, 1999 at
3:07 P.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. Arnie Mohl, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Bob DePratu (R)
Sen. John Hertel (R)
Sen. Greg Jergeson (D)
Sen. Glenn Roush (D)
Sen. Debbie Shea (D)
Sen. Spook Stang (D)
Sen. Daryl Toews (R)

Members Excused: Sen. Reiny Jabs (R)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Phoebe Olson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 145, 1/28/1999
Executive Action: SB 89; SB 113; SB 156

HEARING ON SB 145

Sponsor: SENATOR DALE MAHLUM, SD 35, Missoula

Proponents: Nick Roterling, Montana Department of Transportation

Opponents: None

Opening Statement by Sponsor:

SENATOR DALE MAHLUM, SD 35, Missoula, said SB 145 was requested by Department of Transportation. The bill cleans up outdoor advertising signs. It is a bill designed to shorten the time from 45 days to 20 days for unlawful signs on the roadside. Such signs usually are a piece of plywood with spray paint which are illegal because they do not have the blessings of the Department of Transportation. The bill provides that the sign owner and the landowner may be liable for the cost and removal of the signs.

Proponents' Testimony:

Nick Roterling, Montana Department of Transportation, commented that SB 145 was introduced to achieve a speed-up of the control of outdoor advertising that can be determined as legal. Sections 1 & 2 are to make it consistent in the Logo and Tods program. Section 3, which is existing law, is the time period that a sign owner has to request a hearing waive his hearing. The department wants to shorten the time from 45 days to 20 days. Twenty days is the same time period which is found in the Rules of Civil Procedure. He asked the legislature to allow the department to impose a civil fine on people who are not going to ask for a hearing and won't take the sign down. He submitted a letter from Rich Munger in support of SB 145, **EXHIBIT(his22a01)**.

Opponents' Testimony: None

{Tape : 1; Side : A; Approx. Time Counter : 3:13}

Questions from Committee Members and Responses:

SENATOR JERGESON asked if Section 3 relates to the signs involved in Sections 1 & 2. **Nick Roterling** replied Section 1 is the logo program which you would see on the interstates that advertise gas, lodging and food. Section 2 is the Tods program that is seen on primary highways. **SENATOR JERGESON** asked what constitutes an illegal sign. **Mr. Roterling** answered off premise signs that existed before 1971 when the outdoor advertising program was passed would have been grandfathered in as a nonconformity sign. A sign after 1971 would have to have a qualifying business nearby and have a permit. If the sign is off a premise, it would be illegal.

SENATOR DEPRATU commented about signs that are on private property that promotes businesses which are a little barn or houses. He asked if those would be outlawed. **Mr. Roterling** answered probably, except the Department of Transportation only enforce the outdoor advertising act on interstate highways and primary highways. The department has no jurisdiction on secondary and county roads. **SENATOR DEPRATU** asked how the Department approaches a vehicle placed on private property which has billboards mounted on it. **Mr. Roterling** replied that is exactly what they are trying to go after. He explains the Tods program. **SENATOR DEPRATU** asked about a person who uses a vehicle as a sign but they move it at night. **Mr. Roterling** responded normally they would try to work with the individual.

SENATOR STANG mentioned the wording in Sections 1 and 2. He then asked how many cases are there that either are in court or haven't been settled with the Highway Department. **Mr. Roterling** answered there would be none that are eligible for Logo or Tods. Most of the cases were resolved. **SENATOR STANG** asked if the bill was passed, how many people would have to take down their signs that were once legal. **Mr. Roterling** replied he was unaware of any open cases. **SENATOR STANG** commented on Section 3, and then asked if the landowner or owner of the sign was on vacation, if he would come back to find his sign gone or if he would be fined \$25 for every day he was gone. **Mr. Roterling** responded that in that situation he would leave the sign up until the sign owner was notified. **SENATOR STANG** asked if this bill applied to campaign signs. **Mr. Roterling** answered no it did not apply to campaign signs.

SENATOR JERGESON asked if anybody has contested the issue of free speech with respect and restriction on signs for commercial or any other reasons. **Mr. Roterling** replied 'yes', people have contested that issue. The department does not regulate political signs other than after the campaign is done. There has been litigation on the issue. Free speech is not to be regulated anymore harshly than commercial speech.

SENATOR HOLDEN referred to page 3 line 10 and lines 19-22. He commented that the penalty should not apply to the citizenry until after filed determination by the commission. He asked what is Mr. Roterling's response. **Mr. Roterling** replied it was recommended to the department by a legislative audit that they try to speed up the process. **SENATOR HOLDEN** stated nobody knew what their rights were and by the time they figured it out, under the proposed bill, their rights would have expired.

SENATOR STANG asked if the committee could get a copy of the audit report. **Mr. Roterling** responded he would provide a copy for the committee.

SENATOR MOHL questioned if the fines have were to be collected locally or if they went through Mr. Roterling's office and then what happened to the money. **Mr. Roterling** stated in his mind it would go to the General Fund and it was not marked to the Highway Trust Fund. The Department would impose the fine and attempt to collect it. **SENATOR MOHL** asked if it would be a burden on the local county expenses. **Mr. Roterling** replied not that he was aware. The only time the sheriff's department was needed was to serve papers was when they could not get the landowner served by certified mail or personal service through a private process server. The department pays a portion of the fee back to the county.

SENATOR HOLDEN asked if he interpreted his comment improperly. Mr. Roterling made it sound like he was thinking as a federal person. An illegal sign is seen and you are not acting quickly enough within the 20 days and in someway they are going to hold the action against you. **Mr. Roterling** commented on the sign control process.

SENATOR JERGESON asked if Montana does not get into compliance with federal regulation does it affect the distribution of federal highway assistance from the government. **Mr. Roterling** stated the federal law indicated if states passed a sign control law they would get enhancement funds but if they didn't have a sign control law or didn't enforce it, the state runs the risk of a 10% reduction of federal highway dollars.

SENATOR HOLDEN asked if the federal regulations have an indication on the time period. **Mr. Roterling** replied the federal regulation does not give the department any time period just to enforce it.

SENATOR STANG asked if he has ever received a letter of enforcement from the Federal Transportation Department stating our highway funds were in jeopardy. **Mr. Roterling** responded he could not answer the question but Mr. Munger might know. **SENATOR STANG** asked if the committee could get that information. **Mr. Roterling** stated yes the department could provide that.

Closing by Sponsor:

SENATOR MAHLUM commented on the permitting of signs in Montana. To put up a new sign and get a permit from the Department is very

difficult. He stated the bill helps to define what a person can and can't do with signs on the Montana roads.

{Tape : 1; Side : A; Approx. Time Counter : 3:44}

EXECUTIVE ACTION ON SB 89

Motion: SEN. STANG moved that SB 89 DO PASS.

Discussion:

SENATOR HOLDEN commented on the Broadus Information Center and referred to page 2 line 2. He stated the Broadus Information Center was going to receive the stamp of approval by October 1, 1999 and would fall under the proposed bill.

SENATOR JERGESON wondered, since the Broadus Information Center would become the eighth information center in Montana, if it would create a problem on line 1. He asked if line 1 should state "identifying Montana visitor information centers established and maintained." **SENATOR STANG** responded that he was probably correct.

SENATOR HERTEL stated that would change the fiscal note.

SENATOR MOHL commented the committee needs an amendment to change line 1.

Motion: **SENATOR JERGESON** moved to strike the word "seven" in line 1 following "the" and before Montana.

SENATOR STANG agreed with **SENATOR JERGESON**.

Vote: Motion **AMENDMENT** carried unanimously. 10-0.

SENATOR HOLDEN asked why the state would want to spend \$36,000 plus to make new signs. **SENATOR STANG** replied the signs would show visitors the center is an official Montana State Information Center to distinguish them from others.

{Tape : 1; Side : B; Approx. Time Counter : 3:50}

SENATOR HOLDEN asked what would be the benefit in the distinction between the two signs. **SENATOR STANG** responded people would know the centers are official state information centers. He felt it is an appropriate use of the money.

Motion/Vote: SEN. STANG moved that SB 89 DO PASS AS AMENDED.
Motion carried unanimously. 10-0.

EXECUTIVE ACTION ON SB 113

SENATOR DEPRATU declared he had a direct conflict of interest on the bill and he would refrain from discussion unless somebody wanted to ask him a question.

Motion: SEN. SHEA moved that SB 113 BE AMENDED.

Discussion:

Brenda Nordlund explained amendments.

SENATOR STANG asked if the grandfather clause is contained in the bill without this amendment and what does the grandfather title do. **Brenda Nordlund** replied there is not a grandfather other than through the applicability clause. **SENATOR STANG** asked if it will put those people already in there in any type of advantage over people who may want to get in there in the future. **Brenda Nordlund** stated yes, it means that the individuals who are currently there will not have to meet the minimum retail thresholds that are otherwise in the bill unless the grandfather was removed.

SENATOR STANG asked if it would put the people who were grandfathered in, in a position where they could be more competitive in the market than somebody who wants to come into the market. **SENATOR DEPRATU** responded "no" basically when selling low numbers the seller is not an automobile dealer from the stand point of trying to make a living at it. There is no way anybody could conduct those sales, and that few, and be a viable business in this state. The only advantage is possibly giving a body shop or a wrecking yard the opportunity to sell fewer sales.

Vote: Motion that AMENDMENT DO PASS carried unanimously. 10-0.

Motion: SEN. COLE moved that AMENDMENT DO PASS.

Discussion:

SENATOR MOHL submitted and explained amendment.

SENATOR STANG asked if the amendment would prohibit people from going to the local county fair and selling RV's there. **SENATOR DEPRATU** stated dealers cannot go out of a county to a county fair. **SENATOR STANG** stated he felt if the committee was going to

do this to the RV dealers in Montana, they should have had ample notice and there should have been a bill drafted specifically for that purpose. He stated he will oppose the amendment.

SENATOR HOLDEN agrees with Senator Stang.

SENATOR ROUSH stated he would vote against the amendment.

Vote: Motion **carried 7-3.**

Motion: **SEN. HOLDEN** moved that **AMENDMENT DO PASS.**

Discussion:

Brenda Nordlund explained amendment requested by Senator Holden.

SENATOR HOLDEN explained the reason for the amendment.

SENATOR COLE asked how the department will be notified. **Brenda Nordlund** stated the answer is on page 26 lines 5-9. It is part of the original application process. **SENATOR COLE** asked if this was a duplication. **Brenda Nordlund** replied it is not a duplicate. It is the difference from initially providing the information in an application format and the amendments strike another requirement that would have the insurance carrier also independently send a certificate proving insurance.

Vote: Motion **carried unanimously. 10-0.**

Motion: **SEN. SHEA** moved that **SB 113 DO PASS AS AMENDED.**

Discussion:

{Tape : 1; Side : B; Approx. Time Counter : 4:09}

SENATOR TOEWS stated and explained why he will vote against the bill.

SENATOR STANG asked if there was anything in this bill that will remedy a lemon law for used cars. **SENATOR DEPRATU** replied the one thing that is going to help is the reinforcing the used car sticker has to be in the window. The sticker notifies if the car is being sold as or whether there is a warranty with it.

SENATOR HOLDEN stated he is going to vote for the bill but wanted to note for the record he doesn't think the committee should hand

out grandfather clauses that are going to hurt the people coming up in the business.

Vote: Motion carried with Toews voting no. 9-1.

EXECUTIVE ACTION ON SB 156

{Tape : 1; Side : B; Approx. Time Counter : 4:13}

Motion: SEN. STANG moved that SB 156 DO NOT PASS.

Discussion:

SENATOR STANG explained why he made the motion.

Substitute Motion/Vote: SEN. DEPRATU made a substitute motion that SB 156 BE TABLED. Substitute motion failed 5-5.

Vote: Motion that SB 156 DO NOT PASS carried 6-4 with DePratu, Hertel, STANG and MOHL voting no.

ADJOURNMENT

Adjournment: 4:16 P.M.

SEN. ARNIE MOHL, Chairman

ADRIENNE PILLATZKE, Secretary

AM/AP

EXHIBIT (his22aad)